

Assembly Concurrent Resolution No. 49

RESOLUTION CHAPTER 98

Assembly Concurrent Resolution No. 49—Relative to the California Law Revision Commission.

[Filed with Secretary of State September 16, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

ACR 49, Evans. California Law Revision Commission: studies.

Under existing law, the California Law Revision Commission is required to study, and is limited to studying, those topics approved for its study by resolution of the Legislature.

This measure would authorize the commission to study whether specified laws should be revised, authorize the commission to study the legal and policy implications of treating a charter school as a public entity for purposes of the Tort Claims Act, and would also authorize the removal of one specific topic from the calendar of the commission.

The measure would require the commission, before commencing work on any project within the calendar of topics the Legislature has authorized or directed the commission to study, to submit a detailed description of the scope of work to the chairs and vice chairs of the Committees on Judiciary of the Senate and the Assembly, and if during the course of the project there is a major change to the scope of work, submit a description of the change.

WHEREAS, The California Law Revision Commission is authorized to study topics set forth in the calendar contained in its report to the Governor and the Legislature that have been or are thereafter approved for study by concurrent resolution of the Legislature, and topics that have been referred to the commission for study by concurrent resolution of the Legislature or by statute; and

WHEREAS, The commission, in its annual report covering its activities for 2008 and 2009, recommends continued study of 21 topics, all of which the Legislature has previously authorized or directed the commission to study, and further recommends the addition of one new topic to its calendar and the removal of one previously authorized topic from its calendar; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature approves for continued study by the California Law Revision Commission the topics listed below, all of which the Legislature has previously authorized or directed the commission to study:

(1) Whether the law should be revised that relates to creditors' remedies, including, but not limited to, attachment, garnishment, execution,

repossession of property (including the claim and delivery statute, self-help repossession of property, and the Commercial Code provisions on repossession of property), confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption, procedures under private power of sale in a trust deed or mortgage, possessory and nonpossessory liens, insolvency, and related matters.

(2) Whether the California Probate Code should be revised, including, but not limited to, the issue of whether California should adopt, in whole or in part, the Uniform Probate Code, and related matters.

(3) Whether the law should be revised that relates to real and personal property, including, but not limited to, a marketable title act, covenants, servitudes, conditions, and restrictions on land use or relating to land, powers of termination, escheat of property and the disposition of unclaimed or abandoned property, eminent domain, quiet title actions, abandonment or vacation of public streets and highways, partition, rights and duties attendant on assignment, subletting, termination, or abandonment of a lease, and related matters.

(4) Whether the law should be revised that relates to family law, including, but not limited to, community property, the adjudication of child and family civil proceedings, child custody, adoption, guardianship, freedom from parental custody and control, and related matters, including other subjects covered by the Family Code.

(5) Whether the law relating to discovery in civil cases should be revised.

(6) Whether the acts governing special assessments for public improvement should be simplified and unified.

(7) Whether the law relating to the rights and disabilities of minors and incompetent persons should be revised.

(8) Whether the Evidence Code should be revised.

(9) Whether the law relating to arbitration, mediation, and other alternative dispute resolution techniques should be revised.

(10) Whether there should be changes to administrative law.

(11) Whether the law relating to the payment and the shifting of attorney's fees between litigants should be revised.

(12) Whether the Uniform Unincorporated Nonprofit Association Act, or parts of that uniform act, and related provisions should be adopted in California.

(13) Recommendations to be reported pertaining to statutory changes that may be necessitated by court unification.

(14) Whether the law of contracts should be revised, including the law relating to the effect of electronic communications on the law governing contract formation, the statute of frauds, the parol evidence rule, and related matters.

(15) Whether the law governing common interest housing developments should be revised to clarify the law, eliminate unnecessary or obsolete provisions, consolidate existing statutes in one place in the codes, establish a clear, consistent, and unified policy with regard to formation and management of these developments and transaction of real property interests

located within them, and to determine to what extent they should be subject to regulation.

(16) Whether the statutes of limitation for legal malpractice actions should be revised to recognize equitable tolling or other adjustment for the circumstances of simultaneous litigation, and related matters.

(17) Whether the law governing disclosure of public records and the law governing protection of privacy in public records should be revised to better coordinate them, including consolidation and clarification of the scope of required disclosure and creation of a single set of disclosure procedures, to provide appropriate enforcement mechanisms, and to ensure that the law governing disclosure of public records adequately treats electronic information, and related matters.

(18) Whether the law governing criminal sentences for enhancements relating to weapons or injuries should be revised to simplify and clarify the law and eliminate unnecessary or obsolete provisions.

(19) Whether the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code) and the Mitigation Fee Act (Chapter 5 (commencing with Section 66000), Chapter 6 (commencing with Section 66010), Chapter 7 (commencing with Section 66012), Chapter 8 (commencing with Section 66016), and Chapter 9 (commencing with Section 66020) of Division 1 of Title 7 of the Government Code) should be revised to improve their organization, resolve inconsistencies, and clarify and rationalize provisions, and related matters.

(20) Whether the Uniform Statute and Rule Construction Act (1995) should be adopted in California in whole or part, and related matters.

(21) Whether the law governing the place of trial in a civil case should be revised; and be it further

Resolved, That the Legislature approves for study by the California Law Revision Commission the new topic listed below:

Analysis of the legal and policy implications of treating a charter school as a public entity for the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code; and be it further

Resolved, That the Legislature approves removal from the calendar of the California Law Revision Commission the topic listed below:

Whether the law relating to offers of compromise should be revised; and be it further

Resolved, That before commencing work on any project within the calendar of topics the Legislature has authorized or directed the commission to study, the commission shall submit a detailed description of the scope of work to the chairs and vice chairs of the Committees on Judiciary of the Senate and Assembly, and if during the course of the project there is a major change to the scope of work, submit a description of the change; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the California Law Revision Commission; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.